

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW HAMPSHIRE

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UNITED STATES OF AMERICA      *
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                                * 04-CR-51-01-JD
                                *  October 14, 2004
                                *  2:00 p.m.
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SUNDAY WILLIAMS              *
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TRANSCRIPT OF CHANGE OF PLEA HEARING  
BEFORE THE HONORABLE JOSEPH A. DiCLERICO JR.

Appearances:

For the Government: Alfred Rubega, AUSA  
U.S. Attorney's Office

For Probation: Melissa Elworthy  
U.S. Probation Office

For the Defendant: Richard F. Monteith Jr., Esq.  
14 Londonderry Road  
Londonderry, NH 03053

Court Reporter: Celeste A. Quimby  
NH LCR No. 17  
(quimbybj@metrocast.net)

1                               BEFORE THE COURT

2                       THE CLERK: The court has before it for  
3       consideration this afternoon a change of plea in  
4       Criminal Case 04-51-01-JD, United States of America  
5       versus Sunday Williams.

6                       Mr. Williams, if you'd please raise your right  
7       hand.

8                               SUNDAY WILLIAMS

9               having been duly sworn, testified as follows:

10                   THE CLERK: And for the record, if you'd  
11       please state your full name.

12                   MR. WILLIAMS: My name is Sunday Williams.

13                   THE CLERK: Thank you. Please be seated.

14                   THE COURT: All right. Good afternoon.

15                   MR. MONTEITH: Good afternoon, your Honor.

16                   MR. WILLIAMS: Good afternoon.

17                   THE COURT: Mr. Williams, the court will be  
18       asking you a number of questions over the next 20 or 25  
19       minutes.

20                   MR. WILLIAMS: Yes, sir.

21                   THE COURT: You've just taken an oath, so  
22       you have an obligation to answer my questions

23 truthfully.

24 MR. WILLIAMS: Yes, sir.

25 THE COURT: If you do not answer my questions

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1 truthfully, you could be charged with perjury and with  
2 making false statements.

3 It's in your interests to answer my questions  
4 truthfully because it's my responsibility to determine  
5 if you understand what you're doing this afternoon and  
6 the consequences of what you're doing.

7 MR. WILLIAMS: Yes, sir.

8 THE COURT: So if you do not understand any of  
9 my questions, please let me know.

10 MR. WILLIAMS: Yes, sir.

11 THE COURT: And if you want to consult with  
12 Mr. Monteith at any time during our discussion, please  
13 feel free to do so.

14 MR. WILLIAMS: Yes, sir.

15 THE COURT: So that you and he can talk to  
16 each other easily, you can both remain seated during our  
17 discussion.

18 MR. WILLIAMS: Yes, sir.

19 THE COURT: How old are you, Mr. Williams?

20 How old are you, Mr. Williams?

21 You can remain seated.

22 MR. WILLIAMS: Okay.

23 THE COURT: How old are you, Mr. Williams?

24 MR. WILLIAMS: 46.

25 THE COURT: And how much education have you

4

1 had?

2 MR. WILLIAMS: Up to a Master's degree.

3 THE COURT: Excuse me?

4 MR. WILLIAMS: Up to a Master's degree.

5 THE COURT: Could you pull the microphone up a  
6 little bit closer to Mr. Williams.

7 MR. WILLIAMS: Up to a Master's degree.

8 THE COURT: You can read and write English  
9 reasonably well?

10 MR. WILLIAMS: I can read.

11 THE COURT: You and I have to -- if you pull  
12 that a little closer to him too.

13 You can read and write English reasonably  
14 well?

15 MR. WILLIAMS: Yes, sir.

16 THE COURT: What type of work do you do?

17 MR. WILLIAMS: I work for the City of New  
18 York.

19 THE COURT: And what sort of work do you do  
20 for the city?

21 MR. WILLIAMS: A case manager.

22 THE COURT: Have you ever been treated by a  
23 doctor or a hospital for any form of a mental illness or  
24 mental disability?

25 MR. WILLIAMS: No, sir.

5

1 THE COURT: Do you have a drug or an alcohol  
2 problem?

3 MR. WILLIAMS: No, sir.

4 THE COURT: Right now, are you under the  
5 influence of any drugs or any alcohol?

6 MR. WILLIAMS: No, sir.

7 THE COURT: Are you taking any prescription  
8 medication?

9 MR. WILLIAMS: No, sir.

10 THE COURT: You are a citizen of what  
11 country?

12 MR. WILLIAMS: Citizen of Nigeria.

13 THE COURT: Nigeria?

14 MR. WILLIAMS: Yes, sir.

15 THE COURT: Have you had enough time to talk  
16 with your attorney about this case?

17 MR. WILLIAMS: Yes, sir.

18 THE COURT: And have you told him everything  
19 that you know about your case?

20 MR. WILLIAMS: Yes, sir.

21 THE COURT: Are you satisfied with the  
22 representation that he's provided for you up to this  
23 point in time?

24 MR. WILLIAMS: Yes, sir.

25 THE COURT: Now, the court has before it a

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1 document entitled Plea Agreement with your signature on  
2 the last page.

3 Did you sign this agreement?

4 MR. WILLIAMS: Yes, sir.

5 THE COURT: And did you sign it freely and  
6 voluntarily?

7 MR. WILLIAMS: Yes, sir.

8 THE COURT: Did you review it with Mr.

9 Monteith before you signed it?

10 MR. WILLIAMS: Yes, sir.

11 THE COURT: Mr. Monteith, are you satisfied  
12 that your client understands all of the terms and  
13 conditions of this agreement?

14 MR. MONTEITH: I am, your Honor.

15 THE COURT: Now, under this agreement you  
16 intend to plead guilty to count one of the indictment  
17 that charges you with making false statements.

18 Do you understand that this is a felony?

19 MR. WILLIAMS: Yes, sir.

20 THE COURT: Do you know what the maximum  
21 term of imprisonment is under the law for this --

22 MR. WILLIAMS: Yes, sir.

23 THE COURT: -- offense?

24 MR. WILLIAMS: Yes, sir.

25 THE COURT: Can you tell me what that is?

7

1 MR. WILLIAMS: Five years.

2 THE COURT: That's correct; five years.

3 And you could be fined up to \$250,000. Do you  
4 understand that?

5 MR. WILLIAMS: Yes, sir.

6 THE COURT: There's going to be a special  
7 assessment of a hundred dollars imposed. Do you  
8 understand that?

9 MR. WILLIAMS: Yes, sir.

10 THE COURT: And you could be subject to a term  
11 of supervised release of up to three years. Do you  
12 understand that?

13 MR. WILLIAMS: Yes, sir.

14 THE COURT: As a result of this conviction, do  
15 you understand that you could face the possibility of  
16 deportation?

17 MR. WILLIAMS: Yes, sir.

18 THE COURT: Now, the sentence that will be  
19 imposed in this matter will be governed by the United  
20 States Sentencing Guidelines.

21 If your plea is accepted, the probation  
22 officer, who is seated to your right in the courtroom,  
23 will prepare a presentence investigation report. That  
24 report will contain information about your background  
25 and about your participation in this offense.

1 Once that report is prepared, you and your



2 attorney and the government's attorney will get a copy  
3 of the report. You will have an opportunity to review  
4 it and to try to resolve any objections with the  
5 officer. And to the extent that you can't resolve any  
6 objections, then they will be resolved at the time of  
7 your sentencing hearing.

8           Once that process is completed, the court then  
9 determines under the guidelines what the offense level  
10 is for your case and what the range of sentence is for  
11 your case.

12           You may have certain rights to have any  
13 factors affecting the sentence determined by a jury and  
14 proven by the government beyond a reasonable doubt. Do  
15 you understand that?

16           MR. WILLIAMS: Yes, sir.

17           THE COURT: Now, it's the court's  
18 understanding that you wish to give up your right to  
19 have the jury make those determinations; is that  
20 correct?

21           MR. WILLIAMS: Yes, sir.

22           THE COURT: If you give up your right to have  
23 the jury make those determinations, then the court  
24 will make those determinations at the time of your  
25 sentencing using the standard of a preponderance of the

1 evidence, which is a lower standard of proof. Do you  
2 understand that?

3 MR. WILLIAMS: Yes, sir.

4 THE COURT: And do you give up this right  
5 freely and voluntarily?

6 MR. WILLIAMS: Yes, sir.

7 THE COURT: Now, once the court has determined  
8 under the guidelines what the range is for your case, in  
9 some instances the court can impose a sentence that's  
10 greater than the guideline range or less than the  
11 guideline range. If that happens, do you understand  
12 you cannot withdraw your guilty plea?

13 MR. WILLIAMS: Yes, sir.

14 THE COURT: If you do not receive a sentence  
15 that you would like to receive or hope to receive, do  
16 you understand that you cannot withdraw your guilty  
17 plea?

18 MR. WILLIAMS: Yes, sir.

19 THE COURT: Mr. Monteith, have you reviewed  
20 the possible applications of the guidelines with your  
21 client?

22 MR. MONTEITH: I have, your Honor.

23 THE COURT: Now, Mr. Monteith has probably  
24 given you an estimate as to where your case falls under  
25 the guidelines. In the end, the court will make the

1 final determination. If it is different from what he  
2 has told you, do you understand you cannot withdraw your  
3 guilty plea?

4 MR. WILLIAMS: Yes, sir.

5 THE COURT: Now, in order for the government  
6 to -- one minute.

7 When an individual enters a plea of guilty, he  
8 gives up some very important constitutional rights.

9 You have the right to persist in a plea of not  
10 guilty and to go to trial before a jury represented by  
11 your attorney.

12 At that trial you would have the opportunity  
13 to see, to hear, and to question any witnesses that the  
14 government called to testify against you.

15 You would have the opportunity to subpoena  
16 witnesses on your own behalf and to present to the jury  
17 any defenses you have to this charge.

18 If you wanted to, you could take the witness  
19 stand on your own behalf, but the government could not  
20 require you to take the witness stand, because you have  
21 a right against self-incrimination.

22 If you were convicted, you could appeal that  
23 conviction.

24                   Do you understand that if you enter this plea  
25   of guilty, you're going to give up all of those

11

1   important rights?

2                   MR. WILLIAMS:  Yes, sir.

3                   THE COURT:  And do you give up those rights  
4   freely and voluntarily?

5                   (No audible response.)

6                   THE COURT:  Do you give up those rights freely  
7   and voluntarily?

8                   MR. WILLIAMS:  Yes, sir.

9                   THE COURT:  In order for the government to  
10   gain a conviction, there are certain material elements  
11   that the government would have to prove beyond a  
12   reasonable doubt to the jury's satisfaction.

13                   First, that on the date specified in the  
14   indictment you made a material statement or  
15   representation.

16                   A material statement or representation is a  
17   statement that has a natural tendency to influence or  
18   to be capable of influencing the decision in a matter,  
19   whether it be made by an administrator, a bureaucrat, or

20 whatever. So a material statement is one that's capable  
21 of affecting the outcome of a decision, not a minor or  
22 insignificant statement.

23 Secondly, the statement must have been false,  
24 fictitious, or fraudulent.

25 Thirdly, that that false, fictitious, or

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1 fraudulent statement or representation was made  
2 knowingly and willfully. In other words, you must have  
3 acted voluntarily and deliberately and not mistakenly or  
4 inadvertently. You must have been aware of what you  
5 were doing.

6 And lastly, that the statement or  
7 representation was made in a matter that was in the  
8 jurisdiction of the government of the United States.

9 Now, keeping those elements in mind, I'm going  
10 to ask you if you admit to the allegations contained in  
11 count one of the superseding indictment, which alleged  
12 that in or about May through July 2001, in the District  
13 of New Hampshire and elsewhere, Sunday Williams, in the  
14 matter within the jurisdiction of the United States  
15 Department of State, an agency of the executive branch  
16 of the government of the United States, knowingly and

17 willfully falsified a material fact, made materially  
18 false, fictitious, and fraudulent statements and  
19 representations, and made and used a false writing and  
20 document, knowing the same to contain a materially  
21 false, fictitious, and fraudulent statement in entry, in  
22 connection with an application for a United States  
23 Passport, Form DSP-11, in that the defendant, Sunday  
24 Williams, executed an application for a United States  
25 Passport, which was received at the National Passport

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1 Center in or about January 21st, 2003.

2 In order to induce and secure the issuance  
3 of a United States Passport, Sunday Williams falsely  
4 stated on the application that he was a United States  
5 citizen, that his name was Salahudeen Muhammed Green,  
6 and that he was born on August 21st, 1972, in Brooklyn,  
7 New York, and that his Social Security number was  
8 XXX-XX-8063.

9 In support of his application, Mr. Williams  
10 submitted a birth certificate which purported that he  
11 was born in Brooklyn, New York, on August 21st, 1972,  
12 and that his name was Salahudeen Muhammed Green.

13                   Sunday Williams knew that these statements and  
14   representations were false, and that at all relevant  
15   times Sunday Williams was neither a citizen nor a  
16   national of the United States and was ineligible to  
17   receive a United States Passport, in violation of the  
18   laws of the United States.

19                   Do you admit to those factual allegations?

20                   MR. WILLIAMS: Yes, sir.

21                   THE COURT: I'm now going to ask the  
22   prosecutor to state what facts that the government  
23   would intend to prove if this case went to trial.

24                   Listen carefully, and if you have any  
25   objections to what he says, you can tell me what those

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1   are when he finishes.

2                   MR. RUBEGA: Thank you, your Honor.

3                   Were the case to go to trial, the United  
4   States would prove every element of the charge beyond a  
5   reasonable doubt.

6                   Testimony by Passport Specialist Calvin Wells,  
7   as well as certified records of the U.S. State  
8   Department's National Passport Center in Portsmouth,  
9   New Hampshire, would prove that on or about May 16,

10 2001, an application for a U.S. Passport, or DSP-11,  
11 was submitted under the identity of Salahudeen  
12 Muhammed Green, along with what purported to be the  
13 applicant's birth certificate from the City of New York.  
14 The applicant submitted the birth certificate to bolster  
15 a claim made in the application of U.S. citizenship and  
16 a claim that the defendant was born on 8/21/72 in  
17 Brooklyn, New York.

18               Passport Specialist Wells' testimony and the  
19 certified records of the U.S. State Department would  
20 prove that this application was forwarded for processing  
21 and adjudication to the National Passport Center in  
22 Portsmouth, New Hampshire, where it was received on  
23 or about July 1, 2001.

24               Passport Specialist Calvin Wells would  
25 testify that he referred the application to the

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1 National Passport Center's Fraud Coordination Office  
2 due to suspected fraud, and that the application  
3 was then referred to the U.S. State Department's  
4 Diplomatic Security Service for location of the  
5 subject who submitted the application and further



6 investigation.

7 U.S. State Department's Diplomatic Security  
8 Service Special Agents James Eisenhut and Marcos  
9 Cabrera would testify that they, on January 23, 2003,  
10 interviewed the applicant, Mr. Williams, and that Mr.  
11 Williams signed a written and sworn statement admitting  
12 that his true name was Sunday Williams, that he was  
13 born in Lagos, Nigeria, his true date of birth was  
14 9/26/57, and that he hoped to obtain the passport to  
15 visit his father in Nigeria, as his father was  
16 seriously ill.

17 Mr. Williams admitted that he obtained the  
18 documents he used to impersonate Mr. Green from the  
19 real Mr. Green himself, who assisted Mr. Williams in  
20 making the fraudulent application, for which Mr.  
21 Green -- pardon me; for which Mr. Williams paid Mr.  
22 Green \$500.

23 The special agents would further testify that  
24 they took Mr. Williams' fingerprints, which they then  
25 forwarded to the Department of Homeland Security, Bureau

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1 of Immigration and Customs Enforcement.

2 The testimony of special agents and certified

3 records both of the Department of Homeland Security,  
4 Bureau of Immigration and Customs Enforcement, would  
5 prove that Mr. Williams' admissions as to his identity,  
6 true date and place of birth, foreign citizenship and  
7 illegal status in the U.S. were corroborated, and that  
8 Mr. Williams had been admitted to the U.S. as a  
9 temporary worker on 05/02/92, was authorized to remain  
10 until 06/05/92, and had been in removal proceedings  
11 previously, had applied for political asylum, and was  
12 issued employment authorization, which had expired.

13 Thank you, your Honor.

14 THE COURT: Any exceptions to those facts, Mr.  
15 Monteith?

16 MR. MONTEITH: No, your Honor.

17 THE COURT: Mr. Williams, do you accept the  
18 facts as stated by the prosecutor?

19 MR. WILLIAMS: Yes, sir.

20 THE COURT: Has anybody said anything to you  
21 or done anything to you in any way to force you or to  
22 threaten you into entering this guilty plea?

23 MR. WILLIAMS: No, sir.

24 THE COURT: Do you have any questions about  
25 anything that I have said to you or asked you up to this

1 point in time?

2 MR. WILLIAMS: Ultimately, I only want to say  
3 that I don't have any objection to it.

4 THE COURT: I'm sorry; I didn't quite  
5 understand.

6 MR. WILLIAMS: Yes, I do not have any  
7 objection to it. But I just want to say that the  
8 Immigration matter is pending. It's not like it's a  
9 spy.

10 MR. MONTEITH: If the -- if I can clear  
11 that up, your Honor. The matter with Immigration  
12 and Naturalization is ongoing and has not been  
13 resolved. He has had court hearings in New York and  
14 has received additional time in order to resolve the  
15 matter.

16 MR. WILLIAMS: Yes.

17 THE COURT: All right. The court finds that  
18 the defendant is fully competent and capable of entering  
19 an informed plea. He is aware of the charge against  
20 him. He's aware of the rights that he's giving up.  
21 He's aware of the consequences that can follow. His  
22 plea is knowing. It is voluntary. It is supported by  
23 an independent basis in fact with respect to the  
24 material elements of this offense. Therefore, the court  
25 will accept his plea at this time.

1                   Do you waive the reading of the count, Mr.  
2   Monteith?

3                   MR. MONTEITH: We do, your Honor.

4                   THE CLERK: Mr. Williams, if you'd please  
5   stand.

6                   To the superseding indictment filed on August  
7   5th, 2004, count one charges you with false statements,  
8   in violation of Title 18, United States Code, Section  
9   1001.

10                  How do you plead as to count one?

11                  MR. WILLIAMS: Guilty.

12                  THE COURT: The defendant is judged guilty of  
13   that offense, and sentencing is scheduled for January  
14   14th, 2005, at 9:30 a.m.

15                  What is the situation with respect to  
16   bail?

17                  MR. RUBEGA: The defendant's on personal  
18   recognizance, your Honor, and the United States sees  
19   nothing wrong with continuing that. He's been  
20   cooperative and responsive.

21                  THE COURT: All right. And the current bail  
22   conditions will remain in effect.

23                  You have an obligation to comply with those

24 conditions, Mr. Williams. If you fail to do so, you  
25 could be detained pending your sentencing.

19

1 And you have an obligation to appear for your  
2 sentencing. If you fail to appear, you could be charged  
3 with another crime that also carries a prison sentence  
4 with it. Do you understand that?

5 MR. WILLIAMS: Yes, sir.

6 THE COURT: The court will be in recess.

7 MR. MONTEITH: Thank you, your Honor.

8 (Court adjourned at 2:25 p.m.)

9

10 C E R T I F I C A T E

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13 I, Celeste A. Quimby, do hereby certify that  
14 the foregoing transcript is a true and accurate  
15 transcription of the within proceedings, to the best of  
16 my knowledge, skill, ability and belief.

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CELESTE A. QUIMBY, NH LCR No. 17

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